

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Stephen H. Sweitzer,	:	
Plaintiff	:	Civil Action 2:05-cv-650
v.	:	Judge Smith
American Express Centurion Bank, <i>et al.</i> ,	:	Magistrate Judge Abel
Defendant	:	

ORDER

Plaintiff Stephen H. Sweitzer brings this action alleging that defendant Brad Bender fraudulently and without authorization opened three credit card accounts in Sweitzer's name causing damages to Sweitzer in excess of \$25,000. On November 14, 2005, this Court granted default judgment in favor of Sweitzer but ordered that a damages hearing be held. This matter is before the Court on Magistrate Judge Abel's November 28, 2005 Report and Recommendation (doc. 38), which was issued following the damages hearing also held on November 28, 2005. In it, the Magistrate Judge recommends that Brad Bender be ordered to pay Sweitzer an award of \$581,191 in damages. No objections were filed to the Report and Recommendation.

Upon *de novo* review in accordance with the provisions of 28 U.S.C. §636(b)(1)(B), the Court **ADOPTS** the Report and Recommendation and orders that defendant Brad Bender be ordered to pay Stephen H. Sweitzer \$581,191 in damages. (Doc. 38.) Bender was served with a copy of the summons and complaint on or about June 7, 2005, but he failed to answer or otherwise respond to Sweitzer's allegations. After default judgment was entered, Magistrate Judge Mark R. Abel held a damages hearing at which Sweitzer presented evidence to support his damages claim of \$581,191. After hearing the evidence, the Magistrate Judge determined that

there was sufficient evidence to support an award of \$581,191 in favor of Sweitzer. The Magistrate Judge's November 28, 2005 Report and Recommendation was sent to Bender by certified mail. On December 6, 2005, the certified mail receipt was returned undeliverable (doc. 39).¹ Bender has not objected to the Report and Recommendation or otherwise appeared in this lawsuit. Accordingly, the Magistrate Judge's November 28, 2005 Report and Recommendation is **AFFIRMED** and **ADOPTED**. Brad Bender is **ORDERED** to pay plaintiff Stephen H. Sweitzer \$581,191 in damages plus interest.²

/s/ George C. Smith
George C. Smith, Judge
United States District Judge

¹ This action was originally filed in the Court of Common Pleas, Franklin County Ohio. It was removed to this Court on June 30, 2005. In early June 2005, Brad Bender was served with a copy of the summons and complaint issuing from the state court and sent certified mail. Bender signed the certified mail return receipt. The summons and complaint were sent to Bender's last known address at 8131 Crossgate Court, Dublin, Ohio. This is the same address that the November 28, 2005 Report and Recommendation was sent to.

² This suit remains as to defendant American Express Centurion Bank; plaintiff has settled with defendants Equifax, Inc. (doc. 40), Experian Information Solutions (doc. 32), and TransUnion, LLC (doc. 42).